

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CLARENCE BOWEN ALLEN, BRENDA BERMAN,
ANNETTE BIRDSOING, WILLIAM HENRY, JOSE
JACOB, JACQUELINE KING, SUSAN LAMONICA,
JEAN PHIPPS, ROSLYN PRESS, HERBERT
RICHARDSON, VIRGINIA TUFARO, on behalf of
themselves and on behalf of all other similarly situated
individuals,

Plaintiffs,

19-CV-3786 (JMF)

-against-

DECLARATION OF
ERICA T. HEALEY-KAGAN

THE CITY OF NEW YORK and NEW YORK CITY
HEALTH AND HOSPITALS CORPORATION,

Defendants.

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ERICA T. HEALEY-KAGAN, an attorney duly admitted to practice before this Court,
deposes and declares under penalty of perjury as follows:

1. I am Junior Partner at The Kurland Group, attorneys for Plaintiffs in the above-captioned action. I am familiar with the facts of this case and submit this Declaration in support of Plaintiffs' Motion for Class Certification.

2. The Kurland Group is a boutique firm that specializes in civil rights, with a large focus on employment discrimination. In addition to representing Plaintiffs since September 2017, our firm also regularly litigates employment discrimination matters, including but not limited to various class action litigation in the Southern District of New York.

3. Our firm represents employees both individually and collectively in employment-related matters, including employment discrimination litigation, including but not limited to *Medina v. Jet Blue, et al*, 05-CV-6171 (S.D.N.Y), *Crown Financial, et al v. Demarest, et al*, 05-CV-1951

(D.N.J.), *Monroe, et al v. City of New York, et al*, 113822/2006 (N.Y. Sup.), *Moore v. Houlihan's Restaurant, Inc., et al*, 07-CV-3129 (E.D.N.Y.), *Jaramillo v. Ossining Union Free School District, et al*, 10-CV-6070 (S.D.N.Y.), *Consoli v. First Data Corporation*, 11-CV-1185 (S.D.N.Y.), *Buchalter v. Astrazeneca Pharmaceuticals LP*, 17-CV-61639 (S.D.Fla.), *Local 1180, Communication Workers of America, AFL-CIO et al v. City of New York et al*, 17-CV-03048 (S.D.N.Y.), *Local 3621, EMS Officers Union, DC-37, AFSCME, AFL-CIO et al v. City of New York et al*, 18-CV-04476 (S.D.N.Y.), and *Torres v. City of New York*, 18-CV-03644 (S.D.N.Y.).

4. The Kurland Group has also served as outside counsel for numerous elected officials, including but not limited to then-Public Advocate Letitia James, Assemblymember Al Taylor, and Public Advocate Jumaane Williams.

5. Brief backgrounds of the partners staffing this litigation from our firm are set forth below:

- a. Yetta G. Kurland: In 2002, Ms. Kurland founded a solo practice, which in 2004 became Kurland & Associates, P.C. In 2007, the firm became Kurland Bonica & Associates, P.C. and in 2011, it became the Kurland Group. As Senior Partner, she acts as lead attorney in many of the firm's cases and has litigated employment discrimination matters in New York as well as New Jersey and Florida. These cases primarily involve representing individuals and classes of individuals in employment and civil rights litigation. Ms. Kurland is co-chair of the New York County Lawyers Association Committee on LGBT Issues and has also served as Vice President of the New York City Chapter of the National Lawyers Guild and on the LGBTQ Rights Committee of the New York City Bar. In addition, she has presented numerous continuing legal education seminars on issues such as employment law.
- b. Erica T. Healey-Kagan: Ms. Healey-Kagan began working at Kurland, Bonica & Associates, one of the Kurland Group's predecessor firms, in 2009 after a post-graduate

fellowship at the New York Civil Liberties Union. She became Counsel at the Kurland Group in July 2015 and became a Junior Partner at the firm in January 2019. Ms. Healey-Kagan has litigated many cases in both federal and state court over the past 12 years, in which her practice has consisted in large part of representing individuals and classes of individuals in employment and civil rights cases, including serving as co-lead counsel in cases before the Second Circuit Court of Appeals and successfully arguing many times before the First and Second Department of the Appellate Division of New York. Ms. Healey-Kagan is also lead counsel in employment discrimination cases such as *O'Halloran v. Metropolitan Transportation Authority, et al*, 160953/2013 (N.Y. Sup.); *Williams v. City of New York, et al*, 19 Civ. 3657 (PGG); *Craigwell v. City of New York, et al*, 20 Civ. 8601 (GHW); *Montana v. City of Mount Vernon, et al*, Case No. 21-cv-260 (KMK); and *Simmons v. City of New York, et al*, 162152/2019 (N.Y. Sup.).

6. The Kurland Group has been representing the Plaintiffs since 2017 before they filed their Charge of Discrimination with the EEOC and has been involved in all aspects of case prosecution and management since the inception of the case.

7. The Kurland Group has been involved in all aspects of litigation of this matter, which has included interviewing clients and potential witnesses and investigating the claims; drafting the EEOC charge and the Class Action Complaint; conducting discovery which has included over 20 depositions, extensive document discovery; review and analysis of demographic data by counsel and consultation with expert witnesses regarding such data; reviewing and producing Plaintiffs' documents and discovery demands; litigating a motion to compel; and regularly communicating with Plaintiffs and potential class members.

8. The Kurland Group is committed to dedicating the necessary time and resources and working with the Plaintiffs for the benefit of the classes.

9. Annexed hereto as **EXHIBIT A** is a copy of Plaintiff's Precision Analytics Report.
10. Annexed hereto as **EXHIBIT B** is the Declaration of Representative Plaintiff Annette Birdsong.
11. Annexed hereto as **EXHIBIT C** is the Declaration of Representative Plaintiff Herbert Richardson.
12. Annexed hereto as **EXHIBIT D** is the Declaration of Brenda Berman.
13. Annexed hereto as **EXHIBIT E** is the Declaration of William Henry.
14. Annexed hereto as **EXHIBIT F** is the Declaration of Jose Jacob.
15. Annexed hereto is **EXHIBIT G** is the Declaration of Jacqueline King.
16. Annexed hereto is **EXHIBIT H** is the Declaration of Susan LaMonica.
17. Annexed hereto is **EXHIBIT I** is the Declaration of Jean Phipps.
18. Annexed hereto is **EXHIBIT J** is the Declaration of Roslyn Press.
19. Annexed hereto as **EXHIBIT K** is the Declaration of Virginia Tufaro.
20. Annexed hereto as **EXHIBIT L** is excerpts of the Deposition of Defendant's fact witness William Foley.
21. Annexed hereto as **EXHIBIT M** is excerpts of the Deposition of Representative Plaintiff Annette Birdsong.
22. Annexed hereto as **EXHIBIT N** is excerpts of the Deposition of Plaintiff William Henry.
23. Annexed hereto as **EXHIBIT O** is excerpts of the Deposition of Plaintiff Brenda Berman.
24. Annexed hereto as **EXHIBIT P** is excerpts of the Deposition of Plaintiff Jacqueline King.

25. Annexed hereto as **EXHIBIT Q** is excerpts of the Deposition of Representative Plaintiff Herbert Richardson.

26. Annexed hereto as **EXHIBIT R** is the One New York Health + Hospitals Transformation Plan, Bridge to Better Healthcare.

27. Annexed hereto as **EXHIBIT S** is the Managerial Efficiency Improvement - Message Points.

28. Annexed hereto as **EXHIBIT T** is a PowerPoint indicating intended goals of the Managerial Efficiency Improvement Transformation.

29. Annexed hereto as **EXHIBIT U** is a set of Managerial Efficiency Improvement Initiative (MEII) Frequently Asked Questions and Answers.

30. Annexed hereto as **EXHIBIT V** is the Managerial Efficiency Improvement Initiative (MEII) Overview and Attestation including relevant footnotes.

31. Annexed hereto as **EXHIBIT W** is a copy of the Job Postings advertised after the Managerial Efficiency Improvement Initiative cut the positions.

32. Annexed hereto as **EXHIBIT X** is a list of the Jacobi employees terminated in the 2017 Managerial Efficiency Improvement Initiative.

33. Annexed hereto as **EXHIBIT Y** is excerpts from the Deposition of Defendants' 30(b)(6) witness Christopher Mastromano.

34. Annexed hereto as **EXHIBIT Z** is excerpts from the Deposition of Defendants' fact witness Christopher Mastromano.

35. Annexed hereto as **EXHIBIT AA** is excerpts from the Deposition of Defendants' fact witness James Matthew Fay.

36. Annexed hereto as **EXHIBIT BB** is excerpts from the Deposition of Defendants' fact witness Suzanne Pennachio.

37. Annexed hereto as **EXHIBIT CC** is excerpts from the Deposition of Defendants' 30(b)(6) witness James Matthew Fay.

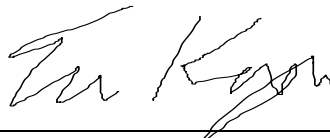
38. Annexed hereto as **EXHIBIT DD** is an email exchange between defendants' agents dated April 12, 2017.

39. Annexed hereto as **EXHIBIT EE** is a notice ordering the Recission of Operating Procedure regarding Group 11 Managerial Positions at Health and Hospitals.

40. Annexed hereto as **EXHIBIT FF** is a copy of the Operating Procedure referenced in paragraph 39 herein.

For the reasons set forth herein and in the accompanying Memorandum of Law, Plaintiffs respectfully request that the Court grant Plaintiffs' motion for class certification in its entirety and issue an Order granting 1) certification of the class defined herein pursuant to FRCP 23(b)(3); 2) appointment of Representative Plaintiffs Annette Birdsong and Herbert Richardson as Class Representatives, and 3) appointment of The Kurland Group as Class Counsel.

I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Phoenix, Arizona on December 30, 2021.



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